

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \* \* \*

4 Melvin Jr. Bailey,

5 Plaintiff,

6 v.

7 Nevada Parole & Probation, et al.,

8 Defendants.  
9

Case No. 2:22-cv-01822-GMN-BNW

**ORDER**

10 Plaintiff Melvin Jr. Bailey brings this lawsuit and moves to proceed *in forma pauperis*  
11 (IFP). *See* ECF No. 1. Plaintiff submitted the affidavit required by 28 U.S.C. § 1915(a) showing  
12 an inability to prepay fees or costs or give security for them. Accordingly, the Court will grant his  
13 request to proceed *in forma pauperis*.

14 The Court now screens Plaintiff's complaint (ECF No. 1-1).

15 **I. Analysis**

16 **A. Screening standard**

17 Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint  
18 under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims  
19 and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be  
20 granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.  
21 § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard  
22 for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668  
23 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must "contain sufficient  
24 factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v.*  
25 *Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks and citation omitted). The court  
26 liberally construes *pro se* complaints and may only dismiss them "if it appears beyond doubt that  
27 the plaintiff can prove no set of facts in support of his claim which would entitle him to relief."  
28 *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir. 2014) (*quoting Iqbal*, 556 U.S. at 678).

1 In considering whether the complaint is sufficient to state a claim, all allegations of  
2 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylar*  
3 *Summit P'ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).  
4 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff  
5 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.  
6 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*  
7 Unless it is clear the complaint's deficiencies could not be cured through amendment, a *pro se*  
8 plaintiff should be given leave to amend the complaint with notice regarding the complaint's  
9 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

#### 10 **B. Screening the Complaint**

11 Plaintiff's complaint contains very few factual allegations. *See* ECF No. 1-1. He alleges  
12 that he was denied the opportunity to provide an explanation at "the hearing" and two officers  
13 "both continue to ignore a perfectly valid constitutional defense." *See id.* at 4. As a result,  
14 Plaintiff alleges that he has been denied "the civil right to enforce my civil right to personal  
15 liberty." *Id.* at 6. Plaintiff asks the Court to determine if the "defendants' authority stems from  
16 valid criminal proceedings . . . ." *Id.* Even liberally construing Plaintiff's complaint, it does not  
17 state sufficient factual allegations about the underlying dispute and the defendants' role in the  
18 matter to state a claim.

19 If Plaintiff chooses to file an amended complaint, the document must be titled "Amended  
20 Complaint." The amended complaint must contain a short and plain statement of the grounds for  
21 the Court's jurisdiction. *See* Fed. R. Civ. P. 8(a)(1). Additionally, the amended complaint must  
22 contain a short and plain statement describing the underlying case and the defendants'  
23 involvement in the case. *See* Fed. R. Civ. P. 8(a)(2). Although the Federal Rules of Civil  
24 Procedure adopt a flexible pleading standard, Plaintiff still must give each defendant fair notice of  
25 his claims against it and of Plaintiff's entitlement to relief.

26 Additionally, Plaintiff is advised that if he files an amended complaint, the original  
27 complaint (ECF No. 1-1) no longer serves any function in this case. As such, the amended  
28 complaint must be complete in and of itself without reference to prior pleadings or other

documents. The Court cannot refer to a prior pleading or other documents to make Plaintiff's amended complaint complete.

**II. CONCLUSION**


**IT IS THEREFORE ORDERED** that Plaintiff Melvin Jr. Bailey's application to proceed *in forma pauperis* (ECF No. 1) is GRANTED.

**IT IS FURTHER ORDERED** that the Clerk of Court must detach and separately file Plaintiff's complaint (ECF No. 1-1).

**IT IS FURTHER ORDERED** that Plaintiff's complaint is dismissed without prejudice.

**IT IS FURTHER ORDERED** that if Plaintiff wishes to file an amended complaint, he must do so by December 21, 2022. Failure to comply with this order will result in a recommendation that this case be dismissed.

DATED: November 21, 2022

  
BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE